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Filed: 01/09/2002  
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Examiner: Bernard D. Pianalto  
Group Art. Unit: 1762

### REMARKS

Claims 1-58 are pending in the application. Claims 23-47, and 2-58 have been withdrawn from consideration. Claims 1-22 and 48-51 have been rejected.

In the Office Action, claims 1-22 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failure to particularly point out and distinctly claim the subject which matter Applicants regard as the invention. This rejection is respectfully traversed. Several questions were raised with respect to claim 1. Claim 1 has been amended as suggested by the Examiner to overcome this rejection. Applicants have carefully reviewed all of claims 1-22 and can find no other potentially indefinite terms in the claims. It is believed that, with the amendment of claim 1 as provided herein, claims 1-22 are allowable as indicated by the Examiner.

### Claim Rejections - 35 U.S.C. §§ 103

Claims 48-50 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Kasen et al. '472 in view of the Hansen et al. '542 patent. This rejection is respectfully traversed.

The Hansen et al. '542 patent was granted on April 23, 2002, approximately four months after the filing date of the above-identified patent application. In addition, the patent application claims priority of a provisional application which was filed on January 17, 2001, and a further provisional application that was filed on April 20, 2001. The Hansen et al. '542 patent can only be considered prior art under 35 U.S.C. § 103(a) to the extent that it is prior art under 35 U.S.C. § 102. Because the application was issued after the filing date of the present application, it can only qualify as prior art under 35 U.S.C. § 102(e), (f), or (g). Under 35 U.S.C. § 103(c) subject matter developed by another person which qualifies as a prior art only under one or more sections (e), (f), and (g) of section 102, is not prior art where the subject matter of the claimed invention was, at the time the invention was made, owned by the same person or subject to an obligation of Assignment by the same person.

The Hansen et al. '542 application is assigned to BISSELL Homecare, Inc. of Grand Rapids, Michigan. Applicants represent that Messrs. Hansen and Williams were, at the time the

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inventions were made, employees of BISSELL Homecare, Inc. and obligated to assign their rights for the inventions of the Hansen et al. '542 patent to BISSELL Homecare, Inc. Further, all of the Applicants for this application, which include Eric Hansen, a co-inventor of the Hansen et al. '542 patent, were, at the time the invention was made with respect to the claims in this application, employees of BISSELL Homecare, Inc. and obligated to assign their rights under this application to BISSELL Homecare, Inc. A copy of the assignment of the inventors of this application to BISSELL Homecare, Inc. is attached hereto as an exhibit.

In view of the foregoing, Applicants submit that the Hansen et al. '542 patent is not prior art under 35 U.S.C. § 103. In view of the foregoing, the alleged combination of Kasen et al. '472 and Hansen et al. '542 is inappropriate.

In view of the fact that the Hansen et al. '542 patent is not prior art, it is submitted that claims 48-50 are not unpatentable over Kasen et al. '472 in view of Hansen et al. '542.

Claim 51 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Kasen et al. '472 in view of Hansen et al. '542 as applied in claim 48 above and further in view of Scholla et al. U.S. Patent No. 5,059,420. This rejection is respectfully traversed.

Like the rejection of claims 48-50, the Hansen et al. '542 is not an appropriate reference under 35 U.S.C. § 103(a) in view of the common ownership at the time the inventions were made. Thus, the alleged combination of Kasen et al. '472 in view of Hansen '542 and view of Scholla et al. '420 is inappropriate and should be withdrawn.

Applicants further traverse the alleged combination of Kasen et al. '472 with Hansen et al. '542 and Schollah et al. '420. There is no basis for combining the Scholla et al. '420 patent with either Kasen et al. '472 or the Hansen et al. '542 reference.

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In view of the foregoing, it is submitted that claims 1-22 and 48-51 are in condition for allowance. Early notification of allowability is respectfully requested.

Respectfully submitted,

Gary A. Kasper et al.

Dated: 8-21-03

By: J. E. McGarry

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616 742 1010 P.14/22





MARCH 15, 2002

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UNITED STATES PATENT AND TRADEMARK OFFICE  
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RECORDATION DATE: 01/09/2002

REEL/FRAME: 012484/0230  
NUMBER OF PAGES: 6

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

## ASSIGNOR:

KASPER, GARY A.

DOC DATE: 01/08/2002

## ASSIGNOR:

HANSEN, SAMUEL N.

DOC DATE: 01/08/2002

## ASSIGNOR:

JANSEN, JOHN L.

DOC DATE: 01/08/2002

## ASSIGNOR:

TRAN, PHONG HOANG

DOC DATE: 01/08/2002

## ASSIGNOR:

HANSEN, ERIC J.

DOC DATE: 01/08/2002

## ASSIGNOR:

BAAN, GABRIEL S. VANDER

DOC DATE: 01/04/2002

## ASSIGNEE:

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McGarry Bair PC

616 742 1010 P.16/22

012484/0230 PAGE 2

SERIAL NUMBER: 10042603  
PATENT NUMBER:

FILING DATE: 01/09/2002  
ISSUE DATE:

ANTIONE ROYALL, EXAMINER  
ASSIGNMENT DIVISION  
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01-24-2002

U.S. DEPARTMENT OF COMMERCE  
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OMB NO. 0651-0027 (exp. 5/31/2002)

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To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of the conveying party(ies):  Gary A. Kasper, Samuel N. Hansen, John L. Jansen, Phong Hoang Tran, Eric J. Hansen and Gabriel S. Vander Baan  01/09/02		2. Name and address of receiving party(ies):  Name: BISSELL Homecare, Inc. Internal Address:  Street Address: 2345 Walker, N.W.  City: Grand Rapids State: MI Zip: 49544
3. Nature of conveyance:  <input checked="" type="checkbox"/> Assignment <input type="checkbox"/> Merger <input type="checkbox"/> Security Agreement <input type="checkbox"/> Change of Name <input type="checkbox"/> Other: _____		Additional name(s) & address(es) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Execution Date: Kasper, S. Hansen, Jansen, Tran and E. Hansen - 1/8/2002; Vander Baan - 1/4/2002		
4. Application number(s) or registration number(s):  If this document is being filed together with a new application, the execution date of the application is: <u>1/8/2002 and 1/4/2002</u>		 A. Patent Application No.(s)      B. Patent No.(s)  Additional numbers attached? <input type="checkbox"/> Yes <input type="checkbox"/> No
5. Name and address of party to whom correspondence concerning document should be mailed:  Name: John E. McGarry  Internal Address: McGARRY BAIR LLP Street Address: 171 Monroe Avenue, NW, Suite 600  City: Grand Rapids State: MI Zip: 49503		6. Total number of applications and patents involved: one (1)  7. Total fee (37 CFR 3.41): .....\$ 40.00  <input type="checkbox"/> Enclosed  <input checked="" type="checkbox"/> Authorized to be charged to deposit account  8. Deposit account number: <u>50-2003</u>
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*To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.*

John E. McGarry, Reg. No. 22,360

January 9, 2002

Name of Person Signing

Signature

Date

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01 KC:5A1 40.00 CH Total number of pages including cover sheet, attachments and document: 7 Atty. Docket No. 71189-1383

Mail documents to be recorded with required cover sheet information to:  
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Corporation

ASSIGNMENT

WHEREAS, Gary A. Kasper, Samuel N. Hansen, John L. Jansen, Phong Hoang Tran, Eric J. Hansen and Gabriel S. Vander Baan residing, respectively, at 0-13989 Windemere Dr., NW, Grand Rapids, MI 49544; 1660 Broadview Dr., Jenison, MI 49428; Apt. 6-F, Tower-2, 70 Robinson Rd., Midlevels, Hong Kong; 1519 Crystalline Dr., Caledonia, MI 49316; 7673 Candlewood Dr., SE, Ada, MI 49301; and 1416 Lenox Road, S.E., Grand Rapids, MI 49506, (hereinafter "Assignors") have invented certain new and useful improvements in:

PROTECTANT APPLICATION

for a full description of which reference is here made to an application for Letters Patent of the United States of America executed by Assignors as of the respective dates associated with their respective names herein; and

WHEREAS, BISSELL Homecare, Inc., a corporation of the State of Michigan, having its principal office and place of business in the City of Grand Rapids, County of Kent, State of Michigan, (hereinafter "Assignee") is desirous of acquiring the entire right, title, and interest in, to, and under said invention and application above-identified, and in, to, and under any Letters Patent that may be obtained for said invention, together with all foreign rights corresponding thereto, as hereinafter more fully set forth.

NOW, THEREFORE, TO ALL WHOM IT MAY CONCERN, be it known that, for and in consideration of the sum of One Dollar (\$1.00), and other valuable and legally sufficient consideration, the receipt of which by Assignors from Assignee is hereby acknowledged, Assignors have agreed to sell, assign, and transfer and by these presents do hereby sell, assign, and transfer unto Assignee the entire right, title, and interest in, to, and under: said invention and application above identified; any Letters Patent of the United States of America that may be obtained in respect thereof; any corresponding applications for Letters Patent and Letters Patent therefor in all other areas of the world; and any reissues, extensions, substitutions, confirmations, divisions, and continuations of any of the foregoing (hereinafter "Invention Rights"), to have and to hold for the sole and exclusive use and benefit of Assignee forever.

Assignors hereby covenant and agree, for themselves and for their respective legal representatives, to assist and cooperate with Assignee in the preparation and prosecution of any applications included within the Invention Rights and in the prosecution or defense of any interference, opposition, or other proceeding that may arise in connection with any applications or Letters Patent included within the Invention Rights and further to execute and deliver to Assignee any and all additional papers that may be requested by Assignee for the purpose of implementing the terms of this ASSIGNMENT.

Assignors hereby authorize and empower Assignee to invoke and claim for any applications or Letters Patent included within the Invention Rights the benefit of any rights to which Assignors might be entitled under international law or under the laws of any particular country (such as, without limitation, the right of priority provided by the International Convention for the Protection of Industrial Property, as amended) and to invoke and claim such rights without further written or oral authorization from Assignors.

Assignors hereby consent that a copy of this ASSIGNMENT shall be deemed a full legal and formal equivalent of any assignment, consent to file, or like document that may be required in any particular country for any purpose and more particularly in proof of the right of Assignee to claim the aforesaid benefit of the right of priority provided by the International Convention for the Protection of Industrial Property, as amended.

Assignors covenant and agree that this ASSIGNMENT and all of the terms hereof shall inure to the benefit of the successors, assigns, legal representatives, or nominees of Assignee, without further written or oral authorization from Assignors.

Assignors hereby authorize and request Assignee to fill in the following blanks specifying the United States Serial No. and filing date for said application as we identified:

U.S. Serial No. \_\_\_\_\_  
Filed \_\_\_\_\_

but Assignee's failure to do so shall have no bearing whatsoever upon the validity or legal effect of this  
**ASSIGNMENT.**

Assignors hereby authorize and request the Commissioner of Patents and Trademarks of the United States Patent and Trademark Office to issue Letters Patent to Assignee in accordance with the terms of this  
**ASSIGNMENT.**

**IN TESTIMONY WHEREOF,** the said Assignors have respectively hereunto set their hands on the dates indicated below.

Dated: 1/08/02

SIGNATURE: Gary A. Kasper

NAME: Gary A. Kasper

STATE OF MICHIGAN )  
) ss.

COUNTY OF KENT )

On this 8th day of January, 2002, personally appeared before me the above-named Gary A. Kasper, to me known and known to me to be the person described in and who executed the foregoing instrument and acknowledged the same to be his free act and deed in and for the purposes set forth in said instrument.

Theresa E. Hansen  
Notary Public, Kent County, Michigan

My commission expires: 3/3/02

Dated: 1/8/02

SIGNATURE: Samuel N. Hansen

NAME: Samuel N. Hansen

STATE OF MICHIGAN )  
) ss.

COUNTY OF KENT )

On this 8th day of January, 2002, personally appeared before me the above-named Samuel N. Hansen, to me known and known to me to be the person described in and who executed the foregoing instrument and acknowledged the same to be his free act and deed in and for the purposes set forth in said instrument.

Theresa E. Hansen  
Notary Public, Kent County, Michigan

My commission expires: 3/3/2002

Dated: 8-JAN-2003SIGNATURE: John L Jansen

NAME: John L Jansen

STATE OF MICHIGAN)

) ss.

COUNTY OF KENT)

On this 8 day of JAN, 2002, personally appeared before me the above-named John L. Jansen, to me known and known to me to be the person described in and who executed the foregoing instrument and acknowledged the same to be his free act and deed in and for the purposes set forth in said instrument.

Witnessed by: K.S. Lee Chloe

Dated: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

NAME: Phong Hoang Tran

STATE OF MICHIGAN)

) ss.

COUNTY OF KENT)

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, personally appeared before me the above-named Phong Hoang Tran, to me known and known to me to be the person described in and who executed the foregoing instrument and acknowledged the same to be his free act and deed in and for the purposes set forth in said instrument.

Notary Public, \_\_\_\_\_ County, \_\_\_\_\_

My commission expires: \_\_\_\_\_

Dated: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

NAME: Eric J. Hansen

STATE OF MICHIGAN)

) ss.

COUNTY OF KENT)

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, personally appeared before me the above-named Eric J. Hansen, to me known and known to me to be the person described in and who executed the foregoing instrument and acknowledged the same to be his free act and deed in and for the purposes set forth in said instrument.

Notary Public, \_\_\_\_\_ County, \_\_\_\_\_

Assign-Kasper Hansen Jansen Tran Hunter Vender Basin (G0039809)

Dated: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

NAME: John L. Jansen

STATE OF MICHIGAN) ss.  
)COUNTY OF KENT

)

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me the above-named John L. Jansen, to me known and known to me to be the person described in and who executed the foregoing instrument and acknowledged the same to be his free act and deed in and for the purposes set forth in said instrument.

Witnessed by: \_\_\_\_\_

Dated: 01/08/02SIGNATURE: Phong Hoang

NAME: Phong Hoang Tran

STATE OF MICHIGAN) ss.  
)COUNTY OF KENT

)

On this 8th day of January, 2002, personally appeared before me the above-named Phong Hoang Tran, to me known and known to me to be the person described in and who executed the foregoing instrument and acknowledged the same to be his free act and deed in and for the purposes set forth in said instrument.

Notary Public, Kent County, MichiganMy commission expires: 3/3/02Dated: 1-8-02SIGNATURE: Eric J. Hansen

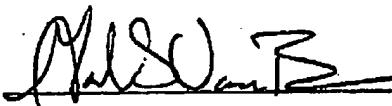
NAME: Eric J. Hansen

STATE OF MICHIGAN) ss.  
)COUNTY OF KENT

)

On this 8th day of January, 2002, personally appeared before me the above-named Eric J. Hansen, to me known and known to me to be the person described in and who executed the foregoing instrument and acknowledged the same to be his free act and deed in and for the purposes set forth in said instrument.

Notary Public, Kent County, MichiganMy commission expires: 3/3/02

Dated: 1.4.02SIGNATURE: 

NAME: Gabriel S. Vander Baan

STATE OF MICHIGAN) ss.  
)COUNTY OF KENT

)

On this 4th day of January, 20 <sup>02</sup>, personally appeared before me the above-named Gabriel S. Vander Baan, to me known and known to me to be the person described in and who executed the foregoing instrument and acknowledged the same to be his free act and deed in and for the purposes set forth in said instrument.

Theresa E. Hansen  
Notary Public, Kent County, Michigan

My commission expires: 3/3/2002

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